

**IN THE UNITED STATES BANKRUPTCY COURT  
FOR THE DISTRICT OF PUERTO RICO**

IN RE:

WILFREDO DE JESUS RIVERA  
SONIA M. HERNANDEZ MELENDEZ

DEBTORS

WILFREDO DE JESUS RIVERA  
SONIA M. HERNANDEZ MELENDEZ

PLAINTIFFS

VS.

GE CAPITAL CORPORATION OF PR

DEFENDANT

CASE NO. 00-00801 GAC

CHAPTER 13

ADV. PROC. NO. 04-00165

**REPLY TO PLAINTIFF'S OPPOSITION TO REQUEST FOR RECONSIDERATION  
OR DECISION AND ORDER AND FOR ADDITIONAL FINDINGS OF FACT AND  
CONCLUSIONS OF LAW**

TO THE HONORABLE COURT:

COMES NOW, General Electric Capital Corporation of Puerto Rico (GEC), represented by the undersigned attorneys and before this Honorable Court most respectfully state and pray:

1. On December 17<sup>th</sup>, 2007 Plaintiffs filed an opposition to Defendant's "Request for Reconsideration of Decision and Order and for Additional Findings of Fact and Conclusions of Law Pursuant to F.R.C.P. 52 and 59(e)". In their opposition they state that defendant's request was untimely as it was filed 16 days after the entry of decision and order on November 20<sup>th</sup>, 2007. The motion filed by plaintiffs was never received by defendant's undersigned attorney who became aware of the filing of the opposition in a telephone conference held with attorney for plaintiffs during the

second week of January.

2. A request for reconsideration and additional findings of fact and conclusions of law pursuant to Federal Rules of Civil Procedure 52 and 59 must be filed within 10 days after the entry of the decision and order.

3. The time for computing “any period of time prescribed” in the Federal Rules of Civil Procedure is calculated pursuant to **Rule 6(a)** and states that “when the period of time prescribed or allowed is less than 11 days, intermediate Saturdays, Sundays, and legal holidays shall be excluded in the computation”. FRCP also provides that the day of the act from which the designated period of time begins to run shall not be included. Rule 6 applies to the 10 day period provided in FRCP 52 and 59, thus Saturdays, Sundays, Thanksgiving Day and any other holiday appointed by the state in which the district court is held are excluded from the computation of the time to file these motions.

4. Decision and Order was entered by this Honorable Court on November 20<sup>th</sup>, 2007. The following days are **excluded** from the computation of the 10 day period to file a motion under FRCP 52 and 59:

- a) November 22 and 23 (Thanksgiving Holiday, Court was closed all day)
- b) November 24 and 25: Saturday and Sunday
- c) December 1 and 2 : Saturday and Sunday

These 6 days are not included in the 10 day period as shown above. Thus the ten (10) day period is calculated as follows: November 21, November 26, 27, 28, 29 and 30, December 3, 4, 5 and 6 = 10 days pursuant to FRCP 6(a).

5. The motion filed by defendant’s for reconsideration of decision and order and additional findings of fact and conclusions of law was timely filed on December 6<sup>th</sup>, 2007. Plaintiffs opposition

constitutes a frivolous filing in view of the clear statutory provisions which contradict their allegations. This is precisely the type of filings which lead defendant to file its motion under FRCP 52 and 29 as additional findings of fact and conclusions of law are necessary in view of plaintiffs' false allegations and failure to allege special damages in the complaint. Plaintiffs have failed to reply to Defendant's motion and it should thus be granted as unopposed.

**WHEREFORE**, it is respectfully requested from this Honorable Court that it deny Plaintiffs' opposition and enter additional findings of fact and conclusions of law as requested and enter an order reconsidering its decision entered on November 20<sup>th</sup>, 2007 and deny Plaintiffs' special damages for economic loss in the amount of \$25,000.00.

RESPECTFULLY SUBMITTED.

In San Juan, Puerto Rico this 24<sup>th</sup> day of January 2008.

**I HEREBY CERTIFY:** That a true and exact copy of this motion was sent by mail to plaintiffs, Wilfredo de Jesus Rivera & Sonia M. Hernandez Melendez, PO Box 9196 Bayamon, P.R. 00960; attorney for plaintiffs, Roberto Pérez Obregón, PO Box 9497, Bayamon, PR 00960-8041.

**SEGARRA MIRANDA & ASSOCIATES**

P.O. BOX 9023385

SAN JUAN, P.R. 00902-3385

TEL. 787-725-6160

FAX: 787-977-2288

/s/NOEMI LANDRAU RIVERA

USDC 215510